

# SHORELINE MANAGEMENT PERMIT

RECEIVED

## ACTION SHEET

AUG 12 2019

CHELAN COUNTY  
COMMUNITY DEVELOPMENT

**Application #:** SDP 2019-008 SCUP 2019-009

**Administering Agency** Chelan County Department of Community Development

**Type of Permits:**

- ☒ Shoreline Substantial Development Permit
- ☒ Shoreline Conditional Use Permit

**Action:**

- ☒ Approved ☐ Denied

**Date of Action:** August 9, 2019

### Date Mailed to DOE/AG

Pursuant to Chapter 90.58 RCW and the Shoreline Master Program of Chelan County, the following permit is hereby approved:

Eric Olsen  
325 Washington Ave. S #243  
Kent, WA 98032

To undertake the following development: Applications for a shoreline substantial development permit and a shoreline conditional use permit were submitted for the modification and removal of portions of an existing retaining wall, maintenance of an existing pier and personal water craft (PWC) lift, construction of stairs, and installation of a boatlift. The existing retaining wall consists of 4 terraced walls; only 3 of the 4 walls are located within the riparian buffer and common line setback and are to be removed by hand. Landscaping rockery is to be placed on the graded sloping hillside and planted with native shrubs to provide erosion control. The retaining wall blocks are to be used for the at grade upland steps leading to the driveway. The existing 8 ft. x 40 ft. (310 sq. ft.) pier was repaired and maintained by the placement of structural wood members and wood decking. The existing 125 sq. ft. boatlift was installed parallel to the existing pier on the downlake side. The existing uplake lift has been in place for decades and was in need of repairs; the footprint of the lift has remained the same. The application also proposed the installation of new stairs to provide access to the lake which are to extend approximately 15 ft. from the pier with an approximate width of 5 ft. The proposed stairs are to rest on a 4 ft. x 5 ft. x 0.5 ft. pre-cast concrete landing; no excavation would be required. Mitigation is proposed through a native vegetation planting plan; the planting will be adjacent to the OHWM of the lake as well as on the sloping hillside for a total of 783 sq. ft. of mitigation.

The proposed applications are to remedy an active code violation for construction without the proper shoreline permits and building without a building permit.

Upon the following property: 60 Cobalt Lane, Manson, WA 98831.

Within 200 feet of the Lake Chelan and/or its associated wetlands.

The project will be within a shoreline of statewide significance (RCW 90.58.030). The project will be located within a rural shoreline environment designation.

The following Shoreline Master Program provisions are applicable to this development: Sections 7, 9, 11, 16, 21, 27 and 29.

## **CONDITIONS OF APPROVAL**

All conditions imposed by this decision shall be binding on the applicant, which includes the owner or owners of the properties, heirs, assigns, and successors.

1. Pursuant to WAC 173-27-150 and RCW 90.58.130(2), prior to commencement of this project, the applicant shall obtain any necessary aquatic permits from agencies with jurisdiction which may include, but is not limited to, the Washington State Department of Fish and Wildlife, the Army Corps of Engineers, the Washington State Department of Ecology, Chelan County PUD, Chelan County Building Department and the Washington Department of Natural Resources.
2. Pursuant to Chelan County Shoreline Master Program Section 30.3.5 and 30.3.6, this shoreline permit shall be valid for the activities described within the JARPA and shown on the site plan of record, including the mitigation plan date stamped April 11, 2019, except as modified by this decision or other jurisdictional agencies.
3. Pursuant to Chelan County Code Section 11.95.040, the applicant shall comply with the mitigation planting plan, date stamped April 11, 2019, except as modified by this decision or other jurisdictional agencies.
4. Pursuant to Chelan County Shoreline Master Program Section 5.7, the applicant may use emergency actions if necessary to protect life, property, or unique historical or archaeological sites from imminent danger.
5. Pursuant to RCW 27.53.060, and CCSMP Section 27, if the applicant or their agents discover previously unknown historic or archaeological remains/artifacts while conducting the development activities authorized by this permit, the applicant/ agent shall immediately notify the appropriate tribal and state representatives and the Chelan County Department of Community Development of the finding for local, state and tribal coordination.
  - 5.1. An inadvertent discovery plan shall be submitted with the building permit application and kept onsite during all land disturbing activities.
6. Pursuant to Chelan County Shoreline Master Program Section 30.3.10, substantial progress toward construction for which a permit has been granted must be accomplished within two (2) years for the granting of the permit.
7. Pursuant to Chelan County Shoreline Master Program Section 30.3.11, a project which has been granted a permit shall be completed within five (5) years of the issuance of a permit. The Administrative authority may extend the permit for one additional year.

## FINDINGS OF FACT

1. The applicant/owner is Eric Olsen, 325 Washington Ave. S #243, Kent, WA 98032.
2. The agent is Anne Hessburg, Grette Associates, LLC., 151 S Worthen Street, Suite 101, Wenatchee, WA 98801.
3. The project location is 60 Cobalt Lane, Manson, WA 98831
4. The parcel number for the subject property is 28-21-34-925-040.
5. The property is legally described as Lot 7, 8, and 9, Block 1, Plat of Willow Point Beach recorded April 13, 1949 under AFN: 420292.
6. The proposed developments are to be located on separate lots that have been historically treated as one concurrent lot. The proposed developments must meet the required setbacks or a Boundary Line Adjustment will need to be completed prior to submittal of building permit as proposed development may take place across property lines.
7. The property is located in the Urban Residential 2 (UR2) zoning district of the Manson Urban Growth Area.
8. As stated in the JARPA, questions 5(m) and 5(o), the subject property is currently used for recreational and residential purposes.
9. The property contains a residence with an attached garage, pole building, retaining walls, seawall, two piers, and two boatlifts.
10. The following are known permits/files on record with Chelan County Community Development:
  - 10.1 BP 750003—single family residence
  - 10.2 BP 750010—dock and bulk head
  - 10.3 CE 18-0110—environmental violation for shoreline development without building or shoreline permits
11. As stated in the JARPA, question 5(l), the property consists of moderate to steeply sloping upland, with a flat area landward of the seawall. Much of the upland is developed with a residence, at-grade paths and mature landscaping. Most of the vegetation near the shoreline is juniper, with a few trees, shrubs, and grasses on the slopes adjacent between the residence and seawall. There is a low to moderate level of fish and wildlife habitat on site due to the size of the property and lack of native vegetation within close proximity to the lake. Below OHWM habitat consists of moderately sloping, unvegetated rock and cobble.
12. The property to the north of the subject property is Willow Point Rd, a public right of way.
13. The property to the south of the subject property Lake Chelan, a 'rural' shoreline environment designation.
14. The property to the east of the subject property is in residential and recreational use and is zoned Urban Residential 2 (UR2).
15. The property to west of the subject property is in residential and recreational use and is zoned Urban Residential 2 (UR2).
16. The applicant submitted an Environmental Checklist. Pursuant to WAC 197-11 and RCW 43.21C of the State Environmental Policy Act (SEPA), environmental review and a threshold determination was completed, and a Determination of Non-Significance (DNS) was issued on June 20, 2019. The SEPA Checklist and DNS are included within the file of record and adopted by reference.

17. The Comprehensive Plan has been reviewed for consistency residential and recreational uses. Specifically, the goals and policies related to the Urban Residential 2 (UR2) designation for the Manson Subarea Plan. The Hearing Examiner finds that the project, as conditioned, is consistent with the Chelan County Comprehensive Plan.
18. According to the Washington State Department of Fish and Wildlife, Priority Habitat and Species Maps, the subject property does not priority habitat or species.
19. According to the Federal Emergency Management Agency, FIRM panel # 5300150225A, there is no floodplain on the subject property. Lake Chelan is a controlled reservoir.
20. According to the Chelan County GIS mapping, the property is located within an identified geologically hazardous area, CCC Chapter 11.86, Geologically Hazardous Overlay District. However, Chelan County does not require geologic site assessments for accessory structures waterward of the OHWM.
21. According to the Washington State Department of Natural Resource Maps, the property does not contain known streams.
22. According to the National Wetlands Inventory Map prepared by the US Department of Fish and Wildlife Services, the subject property does not contain wetlands.
23. Pursuant to CCSMP Section 27, developers shall notify local governments of any possible archaeological materials uncovered during excavation.
24. Based on the email comments from Dept. of Archaeology and Historic Preservation and the Confederated Tribes of Colville, there are known cultural resources near the subject property. The above agencies recommend development of an inadvertent discovery plan. Therefore, staff recommends a condition of approval, requiring an inadvertent discovery plan be kept onsite during all ground-disturbing activities and submitted with building permit application.
25. According to JARPA, question 6(f), construction will begin upon receipt of all permits and end approximately 3 months from start date.
26. The subject property fronts on Willow Point Road, a public right of way. Property access is off of Cobalt Lane, a shared residential driveway for 3 or more lots. Staff was unable to find a recorded or documented easement for Cobalt Lane.
27. Staff recommended as a condition of approval that a recorded access easement be recorded with or prior to the submittal of the building permit. However, this is required by the Chelan County Code regardless of whether or not it is a condition.
28. The noise impacts will be similar to other residential and recreational uses. Construction noise is expected during the proposed project. The project is required to comply with CCC, Chapter 7.35, Noise Control.
29. Minor visual impacts will be from the water and surrounding properties. Properties in the vicinity include similar shoreline developments. Therefore, visual impacts will be comparable to what currently exists in the area.
30. The Notice of Application was referred to surrounding property owners within 300 feet (excluding 60 feet right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on May 8, 2019 and May 15, 2019, with comments due June 14, 2019. Agency comments are considered in the staff report and, when appropriate, associated recommended Conditions of Approval. The following is a list of Agencies who received notice and the date comments were received:

30.1 Chelan County PUD responded on May 15, 2019.

- 30.2 Manson Community Council responded on May 21, 2019.
- 30.3 Department of Archaeology & Historic Preservation responded on June 4, 2019.
- 30.4 Confederated Tribes of the Colville Reservation responded on May 28, 2019.
- 31. The following agencies were notified but did not respond:
  - 31.1 Chelan County Building Official
  - 31.2 WA State Department of Natural Resources
  - 31.3 WA State Department of Ecology
  - 31.4 WA State Department of Fish & Wildlife
  - 31.5 US Department of Fish & Wildlife
  - 31.6 US Army Corps of Engineers
  - 31.7 Yakama Nation
  - 31.8 Chelan County Dept. of Natural Resources
- 32. No public comments were received.
- 33. The application materials were submitted on April 11, 2019.
- 34. A Determination of Completeness was issued on May 3, 2019.
- 35. The Notice of Application was provided on May 8, 2019 & May 15, 2019.
- 36. The Notice of Public Hearing was provided on July 26, 2019.
- 37. The proposed developments waterward of the common line setback are considered water-dependent uses of the "Shoreline Works and Structures". These uses are permitted within the shoreline buffer and waterward of the OHWM.
- 38. The retaining wall and landscaped rockery for erosion control are considered residential structures. Pursuant to CCC Section 16, these structures are permitted up to, but not waterward of the common line setback, as defined in CCSMP Section 7.2.170.
- 39. The project is consistent with the following Shoreline Works and Structures policies:
  - 39.1 SWS should be located and constructed in such a manner which will result in no significant adverse effects on the adjacent shorelines, will minimize alterations of the natural shoreline, and have no long term adverse effects on fish habitat.
  - 39.2 SWS should be designed to blend with the surrounding and not detract from the aesthetic qualities of the shoreline.
  - 39.3 Where SWS can be located near existing SWS and still serve the desired purpose, such shall be encouraged rather than installation in previously unbuilt areas.
  - 39.4 SWS should be designed and located to avoid significant damage to ecological values or to natural resources which would create a hazard to adjacent life, property and natural resource systems
  - 39.5 All SWS must be designed and constructed to accepted engineering standards.
- 40. The replacement of the structural members and decking for the existing pier are of the same size, configuration, location, and external appearance and would not have caused adverse effects to the shoreline resources of environment. The existing watercraft lift upper supports and components

were swapped out for a different configuration. However, the footprint of the lift remained the same.

41. Additionally, CCC Section 11.78.020(4) exempts and allows for the maintenance, repair, of operation of existing legal structures, facilities, or improved areas. The pier and the lift have been in place prior to October 17, 2000 and would be considered legally established. Therefore, the maintenance and repair of the existing pier and watercraft lift would be exempt from the requirements of substantial development permit.
42. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.1(C) in the following respects:
  - 42.1 The provisions of the SMA and WAC have been met through the adoption of the CCSMP. The appropriate CCSMP requirements are addressed below.
  - 42.2 According to JARPA, question 6(g), the fair market value of the project is \$40,000. The project is not exempt from the substantial development permit requirement.
  - 42.3 The CCSMP does not address boatlifts; therefore, the provisions for a Conditional Use Permit apply.
  - 42.4 The project is consistent with the provisions of the SMA, WAC and CCSMP.
43. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.3.2(A) in the following respects:
  - 43.1 The proposed application is to remedy an active code enforcement violation for the construction and placement of a boatlift without the proper shoreline permits and building without a building permit.
  - 43.2 The new boatlift was installed on the downlake side of an existing pier. The boatlift has a maximum footprint of approximately 125 sq. ft. and is open in nature, consisting of open steel framing. The boatlift is approximately 20 ft. waterward of the OHWM at a water depth of approximately 8ft.
  - 43.3 Boatlifts are not addressed in the CCSMP and therefore require review under a Shoreline Conditional Use Permit. The policies of the CCSMP and SMA provide for recreational use of the shoreline.
  - 43.4 The development is consistent with the CCSMP as a recreational use.
44. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.3.2(B) in the following respects:
  - 44.1 As identified on the site plan of record, all proposed development is located on private property. There is no public access to the shoreline.
  - 44.2 This section of the lake is over one mile wide (according to Chelan County GIS measurements), providing room for public use and navigation.
  - 44.3 The development is located on private property and would not interfere with use of public shorelines.
45. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.3.2(C) in the following respects:
  - 45.1 Boatlifts and other in-water structures are common along the Lake Chelan shoreline. Properties within this reach of the shoreline contain piers, boatlifts, and other in-water structures.
  - 45.2 The proposed development would be compatible with the surrounding land uses in the area.



46. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.3.2(D) in the following respects:
  - 46.1 The shoreline designation is 'rural.' The 'rural' designation permits residential and recreational uses and development with appropriate permits.
  - 46.2 The development is consistent with the 'rural' shoreline designation and would cause no unreasonable adverse effects to the shoreline environment designation.
47. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.3.2(E) in the following respects:
  - 47.1 The boatlift would be located on private property, as indicated on the site plan of record, and would be for private use of the property owner.
  - 47.2 The development is for private use, on private property. The public interest would not suffer substantial detrimental effect.
48. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.1(A) in the following respects:
  - 48.1 The proposed development will be located on private property, in the vicinity of other properties with similar recreational in-water structures.
  - 48.2 As conditioned, the development would not affect statewide nor local interests.
49. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.1(B) in the following respects:
  - 49.1 This section of Lake Chelan carries a 'rural' shoreline designation, which allows for residential and recreational uses. As stated in the JARPA, the property consists of moderate to steeply sloping upland with a flat area landward of the seawall. Much of the upland is developed residentially with at grade paths and mature landscaping.
  - 49.2 Although Lake Chelan is a highly developed shoreline, as a way to alleviate some of the potential negative impacts associated with development and site restoration, a native vegetation planting plan is proposed. A total of 581 sq. ft. of mitigation planting would be planted adjacent to the OHWM and landward of the lake.
  - 49.3 As conditioned, the proposed development would not significantly impact the natural character of the shoreline.
50. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.1(C) in the following respects:
  - 50.1 The proposed development would enhance the recreational use of the subject property while bringing it into compliance with Chelan County Code and the Chelan County Shoreline Master Program.
  - 50.2 As conditioned, the proposed development and site restoration would be a long term benefit to the property by enhancing the recreational use of the property and providing safe access to the shoreline.
51. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.1(D) in the following respects:
  - 51.1 The existing in water development, such as the piers and boatlifts, are located waterward of the OHWM. Habitat below OHWM consists of unvegetated rock and cobble. The proposed upland planting of native vegetation with rock placement would have a positive benefit to the shoreline.

- 51.2 The proposed stairs is the only added development waterward of the OHWM. The stairs are expected to be minimal as the stairs are made of a grated material resulting in minimal over water coverage. Additionally, the location for stairs installation is historically cleared of vegetation due to the construction of the sea wall. Any possible impact would be mitigated via the native vegetation planting plan.
- 51.3 All construction activities will occur in the dry, when the lake is drawn down, to minimize the potential for erosion and turbidity, and to reduce the potential for impacts to water quality, fish and wildlife.
- 51.4 As conditioned, the proposed development would not have a substantial impact on the resources and ecology of the shoreline.
- 52. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.1(E) in the following respects:
  - 52.1 The development is located on privately-owned property, with no public shoreline access.
  - 52.2 The development would not impact public access to the shoreline.
- 53. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.1(F) in the following respects:
  - 53.1 The subject property is under private ownership with no public access.
  - 53.2 The development would not affect public recreational opportunities, as the property is privately owned.
- 54. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.2 in the following respects:
  - 54.1 Based on the above findings and conclusions, staff finds the project to be consistent with the intent and spirit of the principles outlined above.
- 55. The proposed applications are to remedy an active code violation for construction without the proper shoreline permits and building without a building permit. The request is for the modification and removal of portions of an existing retaining wall, maintenance of an existing pier and personal water craft (PWC) lift, construction of stairs, and installation of a boatlift adjacent to an existing pier.
- 56. A large aspect of this project is the removal of 3 of the 4 keystone retaining walls. These walls were located within the riparian buffer and waterward of the common line setback, with the intent to halt erosion. The keystone blocks that are to be removed will be used to construct the at grade steps that lead to the asphalt driveway. The location of the 3 walls will be planted with native vegetation and rockery to prevent further erosion of the hillside.
- 57. The project is located in a highly developed section of Lake Chelan. Due to the existing development on and adjacent to the property, the in-water development would have minimal impacts to the shoreline environment and will be compatible with the surrounding land uses.
- 58. Additionally, as a way to alleviate potential negative impacts associated with development, a native planting plan is proposed. A total of 581 sq. ft. of mitigation planting would be located adjacent to the OHWM and landward of the lake. Grated decking is also proposed for the stairs in order to minimize the amount of overwater coverage.
- 59. Staff reviewed the applications and submitted materials. Based on the information contained in the applications and compliance with the Revised Code of Washington, the Washington Administrative Code, the Chelan County Shoreline Master Program, Chelan County Comprehensive Plan, and the Chelan County Code, staff recommends APPROVAL subject to the conditions of approval.



60. An open record public hearing after legal notice was provided was held on August 7, 2019.
61. The File of Record, Chelan County Department of Community Development Staff Report, and exhibits were received, admitted into the record and considered by the Hearing Examiner.
62. Appearing and testifying on behalf of the applicant was Anne Hessburg. Ms. Hessburg testified that she was an agent authorized to appear and speak on behalf of the applicant. Ms. Hessburg indicated that the applicant concurred with the staff report findings and conclusions. The applicant had no objection to any of the proposed conditions of approval, except for proposed condition number 3. The objection is based on the argument that the Chelan County Zoning Code is not part of the Chelan County Shoreline Master Program.
63. No member of the public testified at this hearing.
64. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
65. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

## **CONCLUSIONS OF LAW**

1. The Hearing Examiner has authority to render this Decision.
2. Referral agency comments were received and considered in the review of this proposal.
3. The site of the subject proposal is in the Chelan County Comprehensive Plan Urban Residential 2 (UR2) land use designation. As described, the proposal is consistent with the Chelan County Comprehensive Plan.
4. As conditioned, the subject proposal is consistent with the Chelan County Code, Title 11.
5. Environmental and Critical Areas review has been completed. As conditioned, the proposal does not have negative impacts on critical areas which cannot be mitigated.
6. The proposed project meets the definition of "Development" as defined in the Chelan County Shoreline Master Program and WAC 173-27-030 and is considered a substantial development.
7. The authorization of the shoreline permits will not be materially detrimental to the purposes of the Revised Code of Washington, the Washington Administrative Code, the Chelan County Shoreline Master Program, the Chelan County Comprehensive Plan, the Chelan County, or not be otherwise detrimental to the public interest.
8. The project is not located on a public beach, nor does it block or reduce public use or enjoyment of the area.
9. Subject to the Conditions of Approval, the project design is consistent with the Chelan County Shoreline Master Program requirements.
10. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

**This Shoreline Substantial Development Permit and Shoreline Conditional Use Permit are granted pursuant to the Shoreline Master Program of Chelan County, as amended, and nothing in this permit shall excuse the applicant from compliance with any other federal, state, or local statutes,**

**ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline Management Act of 1971 (Chapter 90.58 RCW).**

This Shoreline Substantial Development Permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

**CONSTRUCTION PURSUANT TO THIS SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT AND SHORELINE CONDITIONAL USE PERMIT SHALL NOT BEGIN NOR IS AUTHORIZED UNTIL TWENTY-ONE (21) DAYS FROM THE DATE OF FILING AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a)(b)(c).**

Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by this permit shall terminate five (5) years from the filing date of this permit.

Approved this 9<sup>th</sup> day of August, 2019.

CHELAN COUNTY HEARING EXAMINER



Andrew L. Kottkamp

**Anyone aggrieved by this decision has twenty-one (21) days from the "date of receipt" as defined by Washington Law to file a petition for review with the Shorelines Hearings Board (for the shoreline permit and shoreline conditional use permit) as provided for in RCW 90.58.180 and Chapter 461-08 WAC, the rules of practice and procedure of the Shorelines Hearings Board.**

**Chelan County Code Section 1.61.130 provides that any aggrieved party or agency may make a written request for reconsideration by the Hearing Examiner within ten (10) days of the filing of the written record of decision. The request for reconsideration shall be submitted to the Community Development Department. Reconsideration of the decision is wholly within the discretion of the Hearing Examiner. If the Hearing Examiner chooses to reconsider, the Hearing Examiner may take such further action deemed proper and may render revised decision within five (5) days after the date of filing of the request for reconsideration. A request for reconsideration is not a prerequisite to filing an appeal under Section 1.61.160.**

The complete case file, including findings, conclusions, and conditions of approval (if any) is available for inspection during the open office hours at Chelan County Department of Community Development. Their address is 316 Washington Street, Suite 301, Wenatchee, WA 98801. Their telephone number is (509) 667-6225.

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**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A  
CONDITIONAL USE AND/OR VARIANCE PERMIT**

Date received by the Department \_\_\_\_\_

Approved \_\_\_\_\_

Denied \_\_\_\_\_

This conditional use/variance permit is approved / denied by the Department pursuant to Chapter 90.58 RCW.

Development shall be undertaken pursuant to the following additional terms and conditions:

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